FIRST DIVISION

[G.R. No. 255085. March 29, 2023]

COMMISSIONER OF INTERNAL REVENUE, *PETITIONER*, VS. VESTAS SERVICES PHILIPPINES, INC., *RESPONDENTS*.

D E C I S I O N

HERNANDO, J.:

This is an appeal[1] by the Commissioner of Internal Revenue (CIR), through the Office of the Solicitor General, seeking to reverse and set aside the July 20, 2020 Decision[2] and the November 24, 2020 Resolution[3] of the Court of Tax Appeals (CTA) *En Banc* in CTA EB No. 2007, which affirmed the Amended Decision[4] dated August 31, 2018 and the Resolution[5] dated December 17, 2018 of the CTA Division in CTA Case No. 8888. The CTA Division partially granted Vestas Services Philippines, Inc.'s (VSPI) claim for refund or issuance of a tax credit certificate in the amount of PHP 4,390,198.45, representing its unutilized input Value-Added Tax (VAT) for the fourth quarter of calendar year (CY) 2013, attributable to its zero-rated receipts for the same period.

The Antecedents

This case stemmed from a claim for refund or issuance of a tax credit certificate by respondent VSPI, in the amount of PHP 41,659,221.63, representing its alleged accumulated and unutilized input VAT for the fourth quarter of CY 2013.

VSPI is a domestic corporation duly organized and ex1stmg under Philippine laws, and is registered with the Bureau of Internal Revenue (BIR) as a VAT taxpayer with Taxpayer Identification No. 007-533-154-000.[6] On February 22, 2013, VSPI amended its primary purpose to be able "to engage in the business of installation and construction services (except contracts for the construction of locally funded public works and contracts for the construction of defense related structures), including entering into subcontracting arrangements, and service of wind power systems, *i.e.*, Wind Turbine Generators, Spare Parts and activities related thereto."[7]

In pursuit of its new purpose, VSPI entered into an Onshore Engineering, Procurement and

Construction Contract with EDC Burgos Wind Power Corporation (EDC Burgos), an export-oriented enterprise, which is duly registered with the Board of Investments, and is engaged in the sale of power through renewable source of energy.[8]

On March 20, 2014, VSPI filed its Quarterly VAT Return for the fourth quarter of CY 2013. On even date, it filed a letter-request for the refund and/or issuance of a tax credit certificate with the BIR.[9]

Thereafter, or on September 5, 2014, VSPI filed a Petition for Review[10] with the CTA Division which was docketed as CTA Case No. 8888, claiming for the refund or issuance of a tax credit certificate in the amount of PHP 41,659,221.63, representing its alleged accumulated and unutilized input VAT for the fourth quarter of CY 2013. In the said petition, VSPI claimed that for the fourth quarter of CY 2013, it generated gross receipts aggregating to PHP 546,196,162.22.[11] VSPI also alleged that since it has no sales transaction other than those made to EDC Burgos, it accumulated an aggregate input VAT of PHP 41,659,221.63, and that such input VAT credits have not been utilized or charged by it against any of its output VAT liability.[12]

In his Answer,[13] the CIR invoked the burden on the part of VSPI to prove its entitlement to the claim for refund or tax credit since taxes paid and collected are presumed to have been made in accordance with the law and is thus, not refundable.[14] The CIR insisted that since tax refunds are in the nature of tax exemptions, it should be strictly construed against taxpayers.[15]

In a Decision dated May 26, 2017,[16] the CTA Division initially dismissed VSPI's claim for refund for lack of jurisdiction. It held that the BIR had 120 days from March 20, 2014, the date when VSPI filed an administrative claim and presumably submitted its complete documents, to decide on the claim for refund, or until July 18, 2014. Since the BIR did not act on VSPI's claim, the latter had until August 18, 2014, the last day of the 30-day period, within which to file its judicial claim. However, VSPI only filed its judicial claim on September 5, 2014, or 18 days after the lapse of the 30-day period. Since VSPI belatedly brought its judicial claim for refund or issuance of a tax credit certificate, the CTA has lost jurisdiction.[17]

On June 13, 2017, VSPI filed a Motion for Reconsideration with Motion for Leave of Court to Reopen the Case for Presentation of Additional Evidence (RE: Decision dated 26 May 2017)[18] where it argued that the issue on the timeliness of its claim for refund was never

raised by the CIR during the entire proceedings; neither was the timeliness of the judicial claim specifically denied by the CIR in his Answer nor controverted by evidence during trial.[19]

Nonetheless, to show that its judicial claim was filed well within the periods allowed under the Tax Code, VSPI attached to its motion a photocopy of a letter showing that it submitted the complete documents to support its claim to the BIR on April 11, 2014 (Transmittal Letter).[20] The BIR then issued a letter dated August 4, 2014 denying VSPI's administrative claim, which was received by the latter on August 6, 2014 (Letter Denial).[21] VSPI argued that this Letter Denial was issued by the BIR within 120 days from its submission of the complete documents.[22] Thus, VSPI's appeal to the CTA made on September 5, 2014 was well within the 30-day period from its receipt of the Letter Denial on August 6, 2014.[23]

In a Resolution dated September 28, 2017,[24] the CTA Division gave VSPI a final opportunity to present and formally offer the documents mentioned and attached to its motion, in the interest of substantial justice.[25] VSPI presented Mary Anne U. Murphy, who testified by way of judicial affidavit.[26] Thereafter, VSPI filed its Supplemental Offer of Evidence.[27]

In a Resolution dated April 4, 2018, the CTA Division admitted VSPI's additional evidence. Moreover, upon establishing the bases for the presentation of secondary evidence, the CTA Division likewise admitted the Transmittal Letter.[28] VSPI filed its Supplemental Memorandum, while the CIR failed to file a memorandum as per Records Verification dated May 22, 2018.[29] Accordingly, VSPI's motion for reconsideration was submitted for resolution.

Ruling of the Court of Tax Appeals Division

In an Amended Decision dated August 31, 2018,[30] the CTA Division partially granted VSPI's motion for reconsideration and thus partially granted its claim for refund or tax credit to the extent of PHP 4,390,198.45, *viz*.:

> **WHEREFORE**, premises considered, [VSPI's] **Motion for Reconsideration (RE: Decision dated 26 May 2017)** is **PARTIALLY GRANTED**. Accordingly, the dispositive portion of this Court's Decision dated May 26, 2017 is amended to read as follows:
>
> "**WHEREFORE**, in view of the foregoing, the instant Petition for

> Review is **PARTIALLY GRANTED**. Accordingly, [the CIR] is **ORDERED TO REFUND** or **TO ISSUE A TAX CREDIT CERTIFICATE** to [VSPI] in the amount of **P4,390,198.45** representing its unutilized input VAT for the 4th quarter of CY 2013, attributable to its zero-rated receipts for the same period.
>
> **SO ORDERED."**

SO ORDERED.[31]

In so ruling, the CTA Division found that VSPI's administrative and judicial claims were both timely filed. Since VSPI filed its administrative claim on March 20, 2014, its subsequent submission of supporting documents on April 11, 2014 was within the 30-day period allowed under Revenue Memorandum Circular No. (RMC) 49-2003.[32] Since no evidence was presented that a written notice was sent by the BIR informing VSPI that the documents transmitted in its April 11, 2014 letter were incomplete, nor requiring VSPI to submit additional documents, the 120-day period started to run from April 11, 2014, the date when VSPI submitted its additional supporting documents.[33] Thus, applying Section 112(C) of the Tax Code, as amended, the BIR had 120 days therefrom or until August 9, 2014 within which to decide VSPI's claim.[34] Meanwhile, VSPI had 30 days therefrom or until September 8, 2014, within which to elevate the case to the CTA.[35] Evidently, VSPI's judicial claim filed on September 5, 2014 was well within the period prescribed by law.[36]

Meanwhile, on the issue of VSPI's entitlement to the amount of tax refund or credit being claimed, the court unequivocally held that VSPI's sales of services to EDC Burgos are subject to zero percent VAT pursuant to Chapter VII, Sec. 15(g) of Republic Act No. (RA) 9513,[37] or the "Renewable Energy Act of 2008," in correlation with Sec. 108(B)(3) of the Tax Code, as amended.[38] The court held that VSPI's rendition of services for the development, construction, and installation of plant facilities, and the whole process of exploration and development of the Burgos Wind Farm Project for EDC Burgos, a registered renewable energy developer of wind resources, may be treated as part of the whole process of exploration and development of renewable energy sources.[39] As a local supplier of services needed for the development, construction and installation of EDC Burgos' facilities, the services rendered by VSPI to EDC Burgos qualify as zero-rated under Chapter VII, Sec. 15(g) of RA 9513.[40]

However, the court made it clear that only sales of services supported by duly registered official receipts imprinted with the word "zero-rated sale" and which contain all the required information under the law and regulations shall qualify for VAT zero-rating under Sec. 108(B)(3) of the Tax Code, as amended, in relation to Chapter VII, Sec. 15(g) of RA 9513.[41] Thus, it found that out of VSPI's PHP 546,196,162.22 declared zero-rated sales, only the amount of PHP 156,148,192.97 qualifies for zero-rating.[42]

Moreover, the court also found that out of VSPI's claimed input VAT of PHP 41,659,221.63 for the fourth quarter of CY 2013, only the amount of PHP 15,356,626.94 represents VSPI's valid input VAT, which can be attributed to the entire zero-rated sales declared by VSPI in the amount of PHP 546,196, 162.22.[43] Consequently, only the input VAT amount of PHP 4,390,198.45 is attributable to the substantiated zero-rated sales of PHP 156,148,192.97,[44] as shown below:

Description	Amount (PhP)
Valid input VAT	P15,356,626.94
Divided by total declared zero-rated sales	546,196,162.22
Multiply by substantiated zero-rated sales	156,148,192.97
Valid Input VAT attributable to substantiated zero-rated sales	**P4,390,198.45**[45]

The court also declared that VSPI's input taxes were not applied against any output VAT liability during the quarter and in the succeeding periods.[46] Aggrieved, the CIR moved for reconsideration but it was denied by the court in a Resolution[47] dated December 17, 2018 for lack of merit. The CIR then elevated the case to the CTA *En Banc* on January 25, 2019 arguing that the CTA Division should not have admitted VSPI's supplemental evidence. Since, VSPI failed to properly establish that it timely filed its judicial claim, its application for refund should be denied.[48]

Ruling of the Court of Tax Appeals *En Banc*

In the assailed July 20, 2020 Decision,[49] the appellate tax court held, thus:

> **WHEREFORE**, in light of the foregoing considerations, the instant *Petition for Review* is hereby **DENIED** for lack of merit. The Amended Decision dated August 31, 2018 and the Resolution dated December 17, 2018 rendered by the Second Division and' Special Second Division of this Court, respectively, in CTA Case No. 8888 are hereby **AFFIRMED**.

SO ORDERED.[50]

The appellate tax court upheld the admission by the CTA Division of VSPI's supplemental evidence based on two grounds: a) petitioner failed to timely file an objection to VSPI's Supplemental Formal Offer of Evidence as per Records Verification dated February 19, 2018;[51] and b) the CTA is not governed strictly by the technical rules of evidence.[52] The CTA *En Banc* also denied petitioner's motion for reconsideration in the assailed Resolution dated November 24, 2020.[53]

Issue

Thus, this instant Petition for Review on *Certiorari*[54] under Rule 45 of the Rules of Court where the sole issue raised is whether VSPI's judicial claim for refund was timely filed with the CTA, pursuant to Sec. 112(C) of the Tax Code, as amended.[55]

Our Ruling

The Petition lacks merit.

At the outset, We would like to stress that the findings of facts of the CTA, when supported by substantial evidence, will not be disturbed on appeal.[56] Due to the nature of its functions, the tax court dedicates itself to the study and consideration of tax problems and necessarily develops expertise thereon.[57] Unless there has been an abuse of discretion on its part, the Court accords the highest respect to the factual findings of the CTA.[58] Verily, petitioner failed to establish any such compelling reason to warrant the reversal of the CTA's findings in this case.

The CTA Division correctly admitted VSPI's supplemental evidence proving that it timely filed its judicial claim

The CIR anchors his Petition on the supposed error on the part of the CTA Division in allowing VSPI to present additional evidence and thereafter, admitting such additional

evidence, despite the irregularities in VSPI's motion for reconsideration. According to the CIR, VSPI's motion did not comply with Secs. 5 and 6, Rule 15 of the Revised Rules of the CTA (RRCTA)[59] since the Transmittal Letter was a mere photocopy and was not newly discovered evidence,[60] and there were no affidavits attached to the motion attesting to the existence or due execution of such evidence.[61] Thus, for VSPI's alleged failure to properly establish the timeliness of its judicial claim, its claim for tax refund or credit should be denied.[62]

In its Comment,[63] VSPI averred that while the CIR indeed opposed the motion, it never objected to the presentation of the Transmittal Letter as secondary evidence, or controvert the veracity thereof.[64] As shown by the records, the CIR failed to object or comment on VSPI's Supplemental Formal Offer of Evidence and file a Memorandum where he could have opposed the admission of the supplemental evidence.[65]

As succinctly found by the appellate court, the CTA's power to admit supplemental evidence has been upheld in *Commissioner of Internal Revenue v. De La Salle University, Inc.*[66] (*De La Salle*) In the said case, *De La Salle* formally offered its supplemental evidence upon filing a motion for reconsideration with the CTA Division. The court then admitted the same and was made the basis of reducing DLSU's tax liabilities. The Court, in upholding the lower court's admission of the supplemental evidence, explained thus:

> We uphold the CTA Division's admission of the supplemental evidence on distinct but mutually reinforcing grounds, to wit: (1) *the Commissioner failed to timely object to the formal offer of supplemental evidence*; and (2) *the CTA is not governed strictly by the technical rules of evidence*.
>
> *First*, the failure to object to the offered evidence renders it admissible, and the court cannot, on its own, disregard such evidence.
>
> The Court has held that if a party desires the court to reject the evidence offered, it must so state in the form of a timely objection and it cannot raise the objection to the evidence for the first time on appeal. Because of a party's failure to timely object, the evidence offered becomes part of the evidence in the case. As a consequence, all the parties are considered bound by any outcome arising from the offer of evidence properly presented.
>
> x x x x

> *Second*, the CTA is not governed strictly by the technical rules of evidence. The CTA Division's admission of the formal offer of supplemental evidence, without prompt objection from the Commissioner, was thus justified.[67]

Petitioner asseverates that he filed an Opposition/Comment on VSPI's motion for reconsideration on June 16, 2017, as well as a Very Strong Opposition to VSPI's Urgent Motion to Reset Hearing with Motion for Leave of Court for the Issuance of a Subpoena Duces Tecum, and thus, should be considered to have timely objected to VSPI's offer of its supplemental evidence.[68]

Petitioner's arguments must fail. As noted by the courts in the proceedings below, petitioner failed to file any comment or objection to VSPI's Supplemental Formal Offer of Evidence as per Records Verification dated February 19, 2018;[69] as well as, a supplemental memorandum as per Records Verification dated May 22, 2018.[70] Consistent with *De La Salle*, a party who desires the court to reject the admission of any evidence formally offered, must do so in the form of a timely objection. In this light, Sec. 36, Rule 132 of the Rules of Court,[71] which applies suppletorily to the RRCTA,[72] specifically provides that an offer of evidence in writing shall be objected to within three days after notice of the offer, unless a different period is allowed by the court.

Meanwhile, this Court discussed in *Magsino v. Magsino*,[73] that in the case of documentary evidence, offer shall be made after all the witnesses of the party making the offer have testified, specifying the purpose for which the evidence is being offered, and it is only at this time, and not at any other, that objection to the documentary evidence may be made.[74] The Court emphasized that objection to documentary evidence must be made at the time it is formally offered, not earlier, because at that time the purpose of the offer has already been disclosed and ascertained.[75] What's important is the objection to the document at the time it is formally offered as an exhibit.[76]

Thus, petitioner's opposition made prior to VSPI's Supplemental Formal Offer of Evidence cannot possibly substitute the objection required under the rules. As discussed, it is only upon the formal offer that the purpose of a document is disclosed and ascertained, and that an objection can be made against its admission as an exhibit. This, petitioner failed to do.

Petitioner likewise chose not to file a supplemental memorandum where he could have explained his earlier omission to file a comment/objection to the formal offer, and where he could have raised his objections to the admission of the Transmittal Letter. The records are

also bereft of any showing that petitioner questioned the testimony of VSPI's witness nor the veracity of the Transmittal Letter during the hearing for the presentation of VSPI's additional evidence. Thus, without any prompt objection from petitioner, the admission of the supplemental evidence was justified.

Moreover, the CTA Division was correct in admitting the Transmittal Letter, even when the same is not an original copy since VSPI was able to establish the basis for the admission of secondary evidence, thus:

> [T]he testimony of Mary Anne U. Murphy sufficiently established the existence of the original Transmittal Letter dated April 11, 2014, and the subsequent loss thereof. Meanwhile, the request made to the CIR to furnish a copy of a certified true copy of the subject document, shows that the unavailability thereof is not due to bad faith and there were efforts made to secure a copy of the original. Since VSPI was able to sufficiently lay the basis for the admission of secondary evidence, *i.e.*, the photocopy of the Transmittal Letter dated April 11, 2014, this [c]ourt finds that the [c]ourt in Division did not err in admitting the subject evidence.[77]

Meanwhile, while the Transmittal Letter, indeed, cannot be considered newly discovered evidence, as it was already in the possession and knowledge of VSPI at the time it filed its claim, We still find and uphold the admission of the said letter, in the interest of substantial justice.

Definitely, and in agreement with the CTA Division, justice would be better served if VSPI was allowed a final opportunity to prove that its judicial claim was timely filed. After all, the law creating the CTA specifically provides that proceedings before it shall not be governed strictly by the technical rules of evidence.[78] The paramount consideration remains the ascertainment of truth.[79] Claimants should be allowed to prove every minute aspect of their claims by presenting, formally offering and submitting to the CTA all evidence required for the successful prosecution of their claims.[80] Indeed, procedural rules should not hamper the CTA to effectively and fully appreciate the facts of the case and ascertain the truth of the allegations to arrive at a just determination of a controversy.[81] With these considerations, the CTA Division correctly gave VSPI the final opportunity to prove that it timely filed its judicial claim.

VSPI timely filed its judicial claim with the CTA

In determining the timeliness of VSPI's judicial claim, Sec. 112 of the Tax Code, as amended, explicitly provides:

> Section 112. *Refunds or Tax Credits of Input Tax*. –
>
> (A) *Zero-rated or Effectively Zero-rated Sales*. — Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: x x x.
>
> x x x x
>
> (D) x x x In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents in support of the application filed in accordance with Subsection (A) and (B) hereof.
>
> In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty day-period, appeal the decision or the unacted claim with the Court of Tax Appeals.

Note that Sec. 112(C) has already been amended by RA 10963[82] or the Tax Reform for Acceleration and Inclusion (TRAIN) Law,[83] and now provides that the BIR has 90 days to grant the refund of creditable input VAT from the date of submission of the official receipts, invoices, or other documents in support of the application filed, and the taxpayer affected may, within 30 days from the receipt of the decision denying the claim, appeal with the CTA.[84] The TRAIN Law further provides that failure on the part of any official, agent, or employee of the BIR to act on the application within the 90-day period shall be punishable

under Sec. 269 of the Tax Code.[85]

Nonetheless, Revenue Regulation No. 13-2018[86] implementing the VAT provisions of the TRAIN Law provides that all claims for refund/tax credit certificate filed prior to January 1, 2018 will be governed by the 120-day processing period.[87] Thus, since VSPI filed its claims for refund before 2018, the 120-day period under the old text of Section 112(C) of the Tax Code shall still be applied.

We summarize below the three relevant periods under Sec. 112 of the Tax Code (before the TRAIN Law amendments), governing claims for refund of input tax attributable to zero-rated or effectively zero-rated sales:

> 1) the VAT-registered taxpayer must file its application for refund or issuance of tax credit certificate with the BIR within two years from the close of the taxable quarter when the sales were made;
>
> 2) the BIR Commissioner has 120 days to grant or deny such claim for refund from the date of submission of complete documents in support of the application that has been timely filed within the two-year period under Sec. 112(A) of the Tax Code; and
>
> 3) the taxpayer must file an appeal with the CTA within 30 days from the receipt of the decision denying the claim or after the expiration of the 120-day period, whichever is earlier.

Indeed, the 120-day and 30-day periods are both mandatory and jurisdictional such that non-compliance with these periods renders a judicial claim for refund of creditable input tax premature.[88]

Meanwhile, Sec. 112(C) categorically provides that the 120-day period is counted "from the date of submission of complete documents in support of the application." In *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue*,[89] (*Pilipinas Total Gas*) the Court exhaustively discussed what constitutes "complete documents" for the purpose of reckoning the 120-day period, thus:

> [I]t becomes apparent that, for purposes of determining when the supporting

documents have been completed — it is the taxpayer who ultimately determines when complete documents have been submitted for the purpose of commencing and continuing the running of the 120-day period. After all, he [or she] may have already completed the necessary documents the moment he [or she] filed his [or her] administrative claim, in which case, the 120-day period is reckoned from the date of filing. The taxpayer may have also filed the complete documents on the 30th day from filing of his [or her] application, pursuant to RMC No. 49-2003. He [or she] may very well have filed his [or her] supporting documents on the first day he [or she] was notified by the BIR of the lack of the necessary documents. In such cases, the 120-day period is computed from the date the taxpayer is able to submit the complete documents in support of his [or her] application.

x x x x

To summarize, for the just disposition of the subject controversy, the rule is that from the date an administrative claim for excess unutilized VAT is filed, a taxpayer has thirty (30) days within which to submit the documentary requirements sufficient to support his [or her] claim, unless given further extension by the CIR. Then, upon filing by the taxpayer of his [or her] complete documents to support his [or her] application, or expiration of the period given, the CIR has 120 days within which to decide the claim for tax credit or refund. Should the taxpayer, on the date of his [or her] filing, manifest that he [or she] no longer wishes to submit any other addition documents to complete his [or her] administrative claim, the 120 day period allowed to the CIR begins to run from the date of filing.

In all cases, whatever documents a taxpayer intends to file to support his [or her] claim must be completed within the two-year period under Section 112 (A) of the NIRC. The 30-day period from denial of the claim or from the expiration of the 120-day period within which to appeal the denial or inaction of the CIR to the CTA must also be respected.

x x x the foregoing [summary] of rules, [however, are applicable only] to those claims for tax credit or refund filed prior to June 11, 2014, such as the claim at bench.[90]

Thus, the rules on determining whether the taxpayer is deemed to have submitted complete

documents for the purpose of reckoning the 120-day period for claims filed prior to June 11, 2014, such as this case, can be summarized as follows:

> 1) The taxpayer has 30 days from the filing of his or her administrative claim, within which to submit all required supporting documents, pursuant to RMC No. 49-2003;[91]
>
> 2) If the taxpayer deems that he or she had already completed the necessary documents the moment he filed his administrative claim, the 120-day period is reckoned from the date of filing;[92]
>
> 3) If the BIR deems, in the course of its investigation, that additional documents are needed, it shall give notice to the taxpayer; in which case, the taxpayer has 30 days from the receipt of the request to produce the requested documents, and the BIR has 120 days to decide on the claim from receipt of such complete documents;[93] and
>
> 4) All documents, filings, and submissions must be done within two years from the close of taxable quarter pursuant to Sec. 112(A) of the Tax Code.

To be clear, claims filed after June 11, 2014 is already governed by RMC No. 54-2014 which requires the taxpayer at the time of filing its claim to complete the supporting documents and attest that it will no longer submit any other document to prove its claim. Further, the taxpayer is barred from submitting additional documents after it has filed its administrative claim.[94]

Considering these guidelines, We find and thus, affirm, that VSPI was able to timely file its judicial claim with the CTA.

To recall, VSPI filed its administrative claim on March 20, 2014 for the fourth quarter of CY 2013. VSPI later presented its supplemental evidence in the form of a Transmittal Letter showing that it submitted the complete documents to the BIR on April 11, 2014. Notably, this was within the 30-day period provided under RMC 49-2003, and within the two-year period prescribed under Sec. 112(A) of the Tax Code. It is also worthy to note that no evidence was shown to prove that the BIR sent a request to VSPI for the production of additional documents. The BIR, therefore, had 120 days therefrom, or until August 9, 2014 within which to decide the claim.

Had the BIR not acted on VSPI's claim, the latter had 30 days from the expiration of the 120-day period, or until September 8, 2014 to file its judicial claim. However, since the BIR's Letter Denial came earlier than the expiration of the 120-day period, the 30-day period should be counted from VSPI's receipt of such letter denial on August 6, 2014. Thus, VSPI had until September 5, 2014 within which to file its petition before the CTA. Verily, VSPI was able to timely file its judicial claim before the CTA on September 5, 2014, thus:

Date when the administrative claim was filed	Date of submission of complete documents	End of the 120-day period from the submission of complete documents	End of the 30-day period to file judicial claim	Receipt of the letter denial from the BIR	End of the 30-day period to file judicial claim
March 20, 2014	April 11, 2014	August 9, 2014	September 8, 2014	August 6, 2014	September 5, 2014

Whether VSPI has substantially proven its entitlement to the partial refund is a question of fact which, absent any compelling reason, should no longer be revisited by this Court

It has been held that the determination of whether a taxpayer duly substantiated its claim for refund of creditable input tax is a factual matter that is generally beyond the scope of a petition for review on *certiorari*.[95] Unless a case falls under any of the exceptions, this Court will not undertake a factual review and look into the parties' evidence and weigh them anew.[96] The issue of whether a claimant has actually presented the necessary documents that would prove its entitlement to a tax refund or tax credit, is indubitably a question of fact.[97] Likewise, whether VSPI has complied with the requirements for its supply of services to qualify for zero-rating under the Tax Code, as amended, is one of fact, the determination of which is best left to the CTA, being a highly specialized body that reviews tax cases.

Notably, VSPI no longer questioned the CTA's partial decision in its favor granting it the reduced amount of PHP 4,390,198.45, nor did petitioner question the said amount. Instead, petitioner focused mainly on the timeliness of VSPI's judicial claim as basis for the denial of

the claim for tax refund or credit which We have already resolved.

Thus, We see no reason to delve into the factual findings of the CTA and review anew the evidence presented by VSPI. Based on their appreciation of the evidence presented to them, the CTA unequivocally ruled that VSPI was only able to prove its entitlement to the refund or the issuance of a tax credit ce1iificate for unutilized input VAT for the fourth quarter of CY 2013, to the extent of PHP 4,390,198.45.

WHEREFORE, the instant petition is **DENIED**. The July 20, 2020 Decision and the November 24, 2020 Resolution of the Court of Tax Appeals *En Banc* in CTA EB No. 2007, are **AFFIRMED** *in toto*.

The Court further resolves to:

1) **GRANT** the First Motion for Extension of Time of thirty (30) days from December 10, 2022, within which To File Memorandum by the Office of the Solicitor General;

2) **NOTE** the Memorandum (For Respondent Vestas Services Philippines, Inc.), in compliance with the Resolution dated August 17, 2022;

3) **NOTE** the Memorandum for Petitioner, in compliance with the Resolution dated August 17, 2022;

4) **REQUIRE** the Office of the Solicitor General to submit an electronic copy in PDF file of the signed first motion for extension of time to file memorandum pursuant to the Resolution dated February 22, 2022 in A.M. Nos. 10-3-7-SC and 11-9-4-SC within ten (10) days from receipt of this Decision;

5) **REQUIRE** respondent Vestas Services Philippines, Inc. to submit a verified declaration of the Memorandum for respondent Vestas Services Philippines, Inc. pursuant to the Resolution dated February 22, 2022 in A.M. Nos. 10-3-7-SC and 11-9-4-SC within ten (10) days from receipt of this Decision; and

6) **REQUIRE** the petitioner to submit a verified declaration of the memorandum for petitioner pursuant to the Resolution dated February 22, 2022 in A.M. Nos. 10-3-7-SC and 11-9-4-SC within ten (10) days from receipt of this Decision.

SO ORDERED.

Gesmundo, C.J. (Chairperson), Zalameda, and *Marquez, JJ.*, concur.
Leonen,[*] *SAJ.*, on official leave.

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[*] Per March 8, 2023 Raffle vice J. Rosario who recused since his wife BIR Regional Director Maridur V. Rosario, is the authorized representative of the BIR and is the signatory to the Verification and Certification against Forum Shopping of the instant Petition for Review on Certiorari.

[1] *Rollo*, pp. 42-64 (sans annexes).

[2] *Id.* at 65-88. Penned by Associate Justice Erlinda P. Uy and concurred in by Presiding Justice Roman G. Del Rosario, and Associate Justices Juanito C. Castaneda, Jr., Esperanza R. Fabon-Victorino, Ma. Belen M. Ringpis-Liban, Catherine T. Manahan, Jean Marie A. Bacorro-Villena, and Maria Rowena Modesto-San Pedro.

[3] *Id.* at 89-93. Penned by Associate Justice Erlinda P. Uy and concurred in by Presiding Justice Roman G. Del Rosario, and Associate Justices Juanito C. Castañeda, Jr., Ma. Belen M. Ringpis-Liban, Catherine T. Manahan, and Jean Marie A. Bacorro-Villena. Maria Rowena Modesto-San Pedro was on leave.

[4] *Id.* at 182-208. Penned by Associate Justice Caesar A. Casanova and concurred in by Associate Justices Juanito C. Castañeda, Jr., and Catherine T. Manahan.

[5] *Id.* at 65-66.

[6] *Id.* at 95.

[7] *Id.*

[8] *Id.* at 96.

[9] *Id.* at 67.

[10] *Id.* at 94-135.

[11] *Id.* at 96.

[12] *Id.*

[13] *Id.* at 67-68.

[14] *Id.* at 68.

[15] *Id.*

[16] *Id.* at 140-154. Penned by Associate Justice Caesar A. Casanova, and concurred in by Associate Justice Juanito C. Castañeda, Jr.; Associate Justice Catherine T. Manahan dissented.

[17] *Id.* at 153.

[18] *Id.* at 159-169.

[19] *Id.* at 160-161.

[20] *Id.* at 162, 168.

[21] *Id.* at 162.

[22] *Id.*

[23] *Id.*

[24] *Id.* at 176-181. Penned by Associate Justice Caesar A. Casanova, and concurred in by Associate Justice Catherine T. Manahan, Associate Justice Juanito C. Castañeda, Jr. was on leave.

[25] *Id.* at 180.

[26] *Id.* at 183.

[27] *Id.*

[28] *Id.* at 183-184.

[29] *Id.* at 184.

[30] *Id.* at 182-208.

[31] *Id.* at 207. Emphases in the original.

[32] *Id.* at 192.

[33] *Id.* at 194.

[34] *Id.*

[35] *Id.*

[36] *Id.*

[37] Entitled "AN ACT PROMOTING THE DEVELOPMENT, UTILIZATION AND COMMERCIALIZATION OF RENEWABLE ENERGY RESOURCES AND FOR OTHER PURPOSES." Approved: December 16, 2008.

[38] *Rollo*, p. 198.

[39] *Id.*

[40] *Id.* at 198-199.

[41] *Id.* at 201.

[42] *Id.* at 205.

[43] *Id.* at 206.

[44] *Id.*

[45] *Id.* at 207.

[46] *Id.*

[47] *Id.* at 65-66.

[48] *Id.* at 71.

[49] *Id.* at 65-88.

[50] *Id.* at 87. Emphasis in the original.

[51] *Id.* at 83.

[52] *Id.*

[53] *Id.* at 89-93.

[54] *Id.* at 42-64 (sans annexes).

[55] *Id.* at 48.

[56] See **Commissioner of Internal Revenue v. San Miguel Corporation**, 804 Phil. 293, 340 (2017).

[57] *Rollo*, p. 48.

[58] *Id.*

[59] *Id.* at 48-49.

[60] *Id.* at 51.

[61] *Id.* at 53.

[62] *Id.* at 58.

[63] *Id.* at 238-244.

[64] *Id.* at 240.

[65] *Id.*

[66] 799 Phil. 141 (2016).

[67] *Id.* at 176-178. Italics in the original.

[68] *Rollo*, p. 57.

[69] *Id.* at 83.

[70] *Id.* at 184.

[71] SEC. 36. *Objection*. — Objection to evidence offered orally must be made immediately after the offer is made.

Objection to a question propounded in the course of the oral examination of a witness shall be made as soon as the grounds therefor shall become reasonably apparent.

An offer of evidence in writing shall be objected to within three (3) days after notice of the offer unless a different period is allowed by the court.

[72] Administrative Matter No. 05-11-07-CTA, Rule 1, Sec. 3.

[73] **G.R. No. 205333**, February 18, 2019, citing **Spouses Tapayan v. Martinez**, 804 Phil. 523, 534 (2017).

[74] *Id.*

[75] *Id.*, citing **People v. Lenantud**, 405 Phil. 189, 206 (2001).

[76] *Id.*, citing **Macasiray v. People**, 353 Phil. 353, 360 (1998).

[77] *Rollo*, p. 85.

[78] Republic Act No. 1125 (1954), Sec. 8. "*Court of record; seal; proceedings*. — The Court of Tax Appeals shall be a court of record and shall have a seal which shall be judicially noticed. It shall prescribe the form of its writs and other processes. It shall have the power to promulgate rules and regulations for the conduct of the business of the Court, and as may be needful for the uniformity of decisions within its jurisdiction as conferred by law, but such proceedings shall not be governed strictly by technical rules of evidence." See **Commissioner of Internal Revenue v. Univation Motor Philippines, Inc. (formerly Nissan Motor Philippines, Inc.), G.R. No. 231581**, April 10, 2019.

[79] **Commissioner of internal Revenue v. Univation Motor Philippines, Inc. (formerly Nissan Motor Philippines, Inc.)**, *supra*.

[80] *Id.*

[81] **BPI Family Savings Bank v. Court of Appeals**, 386 Phil. 719, 726 (2000).

[82] Entitled "AN ACT AMENDING SECTIONS 5, 6, 24, 25, 27, 31, 32, 33, 34, 51, 52, 56, 57, 58, 74, 79, 84, 86, 90, 91, 97, 99, 100, 101, 106, 107, 108, 109, 110, 112, 114, 116, 127, 128, 129, 145, 148, 149, 151, 155, 171, 174, 175, 177, 178, 179, 180, 181, 182, 183, 186, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 232, 236, 237, 249, 254, 264, 269, AND 288; CREATING NEW SECTIONS 51-A, 148-A, 150-A, 150-B, 237-A, 264-A, 264-8, AND

REPEALING SECTIONS 35, 62, AND 89; ALL UNDER REPUBLIC ACT NO. 8424, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, As AMENDED, AND FOR OTHER PURPOSES." Approved: December 19, 2017.

[83] Effective: January 1, 2018.

[84] Republic Act No. 10963, Sec. 36.

[85] *Id.*

[86] Regulations Implementing the Value-Added Tax Provisions under the Republic Act No. 10963, or the "Tax Reform for Acceleration and Inclusion (TRAIN)", Further Amending Revenue Regulations (RR) No. 16-2005 (Consolidated Value-Added Tax Regulations of 2005), as Amended; Dated: March 15, 2018.

[87] Revenue Regulation No. 13-2018, Sec. 2.

[88] See **CE Luzon Geothermal Power Company, Inc. v. Commissioner of Internal Revenue**, 814 Phil. 616, 619 (2017).

[89] 774 Phil. 473 (2015).

[90] *Id.* at 493-496.

[91] Dated August 15, 2003; p. 2.

[92] See **Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue**, *supra*.

[93] RMC No. 49-2003, p. 2; See **Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue**, *supra*.

[94] See **Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue**, *supra*.

[95] See **Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue**, 655 Phil. 499, 508 (2011).

[96] *Id.*

[97] *Id.*

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